## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

BILLIE MERCER, Individually and as Heir	Š	
To the Estate of Larry Jackson, Jr.; and	§	
Larry Mercer, Individually, and as Heir to	§	
The Estate of Larry Jackson, Jr.	§	
	§	
Plaintiffs	§	
	§	CIVIL ACTION NO. 1-13-cv-00830
VS.	§	
	§	
CHARLES KLEINERT, and	§	
THE CITY OF AUSTIN	§	
Defendants	§	

# <u>DEFENDANT THE CITY OF AUSTIN'S</u> <u>MOTION FOR A MORE DEFINITE STATEMENT TO</u> KIRSTEN JACKSON'S AMENDED COMPLAINT IN INTERVENTION

TO THE HONORABLE UNITED STATES DISTRICT JUDGE LEE YEAKEL:

COMES NOW, the City of Austin, Defendant, (hereinafter "the City") and respectfully files its Motion for a More Definite Statement to Kirsten Jackson's Amended Complaint in Intervention (Clerk's Docket #52).

#### INTRODUCTION

- 1. Intervenor Kirsten Jackson sued the City pursuant to 42 U.S.C. §1983 but has since amended her complaint in intervention to add "claims for negligence and assault as a result of the conduct of Officer Kleinert." See paragraph 6(a) of Plaintiff's Amended Complaint in Intervention.
- 2. The new allegations found in paragraph 6(a) are so vague and ambiguous that the City cannot file a responsive pleading; therefore, the court should require Intervenor to amend her complaint with a more definite statement of the new allegations found in this paragraph.

#### **ARGUMENT**

3. Intervenor now alleges both negligence and assault as causes of action, but has not indicated whether these causes are brought pursuant to federal or state law. Intervenor has failed to plead the elements of the cause of action or clearly state facts for which she claims the City is liable. Without further specificity, the City will not be able to properly prepare its defense to the cause of action brought by Intervenor.

## **CONCLUSION**

4. The new causes of action added in paragraph 6(a) of Plaintiff's Amended Complaint in Intervention are not specific enough to permit the City to file a responsive pleading. As a result, the Court should require Intervenor to amend her complaint with a more definite statement of the suit.

Respectfully submitted,

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**CITY OF AUSTIN** 

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 28, 2015, a true and correct copy of the foregoing document has been electronically filed on the CM/ECF system, and a copy forwarded to the following parties as follows:

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